

ESTTA Tracking number: **ESTTA492428**Filing date: **09/04/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cisco Technology, Inc.
Granted to Date of previous extension	09/02/2012
Address	170 West Tasman Drive San Jose, CA 94041 UNITED STATES

Attorney information	Sally M. Abel, Linda M. Goldman Fenwick & West LLP 801 California Street Mountain View, CA 94041 UNITED STATES trademarks@fenwick.com Phone:(650) 988-8500
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Applicant Information

Application No	85431260	Publication date	03/06/2012
Opposition Filing Date	09/04/2012	Opposition Period Ends	09/02/2012
Applicant	Spot On Networks, LLC 55 Church Street New Haven, CT 06510 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. All goods and services in the class are opposed, namely: Wireless broadband communication services
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	2214831	Application Date	02/25/1994
Registration Date	12/29/1998	Foreign Priority Date	NONE
Word Mark	IOS		
Design Mark			
Description of	NONE		

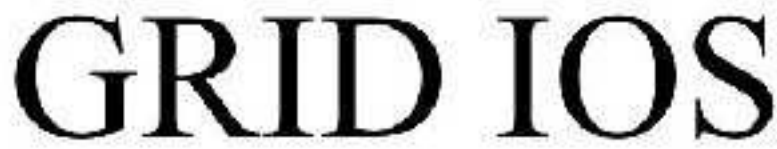
Mark	
Goods/Services	Class 009. First use: First Use: 1993/07/08 First Use In Commerce: 1993/07/08 router, switch, hub and server operating software

U.S. Registration No.	2116686	Application Date	09/08/1995
Registration Date	11/25/1997	Foreign Priority Date	NONE
Word Mark	CISCO IOS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/07/29 First Use In Commerce: 1996/07/29 computer software for networking, namely software which provides connectivity, interoperability and management capability among networked components and systems Class 016. First use: First Use: 1996/07/29 First Use In Commerce: 1996/07/29 computer manuals for computer networking		


U.S. Application No.	85167328	Application Date	11/02/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	IOS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: Technical support services, namely, troubleshooting in the nature of diagnosing problems with computer operating software and hardware and digital electronic devices; technical support services, namely, troubleshooting in the nature of repairing computer operating software		

U.S. Application No.	85975578	Application Date	11/02/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	IOS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: Computers; computer operating software; computer software, namely, application development tool programs for personal and handheld computers and handheld digital electronic devices

U.S. Application No.	77919860	Application Date	01/25/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GRID IOS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: Computer operating software; router, switch, hub and server operating software; software for energy management; software for the administration of power grid data communication networks; network management and security software, namely, software for traffic prioritization, security, intrusion prevention, virtual private networks, firewalls, and identity and access control in the field of energy management		

U.S. Application No.	77919862	Application Date	01/25/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CISCO GRID IOS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: Computer operating software; router, switch, hub and server operating software; software for energy management; software for the administration of power grid data communication networks; network management and security software, namely, software for traffic prioritization, security, intrusion prevention, virtual private networks, firewalls, and identity and access control in the field of energy management

Attachments	85167328#TMSN.jpeg (1 page)(bytes) 85975578#TMSN.jpeg (1 page)(bytes) 77919860#TMSN.jpeg (1 page)(bytes) 77919862#TMSN.jpeg (1 page)(bytes) WIOS_-_Notice_of_Opposition.pdf (6 pages)(29435 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/sabel/
Name	Sally M. Abel, Linda M. Goldman
Date	09/04/2012

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of
Trademark Application Serial No.: 85/431,260
Filed: September 24, 2011
Published: March 6, 2012
Mark: WiOS

Cisco Technology, Inc.,)	
)	
)	
v.	Opposer,)
)	Opposition No. _____
)	
)	
Spot On Networks, LLC)	
)	
	Applicant.)
_____)	

NOTICE OF OPPOSITION

Cisco Technology, Inc., a California Corporation, having its business at 170 West Tasman Drive, San Jose, California 95134, (“Opposer”), believes that it will be damaged by the registration of the mark shown in Application Serial Number 85/431,260, and hereby opposes that application, alleging as grounds for the opposition that:

1. As evidenced by the publication of the WiOS application in the March 6, 2012 issue of the Official Gazette, Spot On Networks, LLC (“Applicant”), seeks to register WiOS as a service mark for “Wireless broadband communication services” in International Class 38 (“the Application”). The Application was filed on September 24, 2011, based solely on Applicant’s alleged intent to use.

2. Opposer is the owner of the following incontestable registrations:

Trademark	Reg. No.	Full Goods Description	Filing Date	Registration Date
IOS	2,214,831	(Int'l Class: 9) Router, switch, hub and server operating software	February 25, 1994	December 29, 1998
CISCO IOS	2,116,686	(Int'l Class: 9) Computer software for networking, namely software which provides connectivity, interoperability and management capability among networked components and systems (Int'l Class: 16) Computer manuals for computer networking	September 8, 1995	November 25, 1997

These registrations are valid and subsisting and are conclusive evidence of Opposer's exclusive right to use them in commerce in connection with the goods specified therein.

4. Opposer also owns the following applications (together with Opposer's registrations above, the "IOS Marks"):

Trademark	Serial No.	Full Goods Description	Priority Date
IOS	85/167,328	(Int'l Class: 42) Technical support services, namely, troubleshooting in the nature of diagnosing problems with computer operating software and hardware and digital electronic devices; technical support services, namely, troubleshooting in the nature of repairing computer operating software	May 3, 2010 (claiming foreign priority under Section 44(d) to Jamaican Application No. 55562)
IOS	85/975,578	(Int'l Class: 9) Computers; computer operating software; computer software, namely, application development tool programs for personal and handheld computers and handheld digital electronic	May 3, 2010 (claiming foreign priority under Section 44(d) to Jamaican Application No. 55562)

		devices	
GRID IOS	77/919,860	(Int'l Class: 9) Computer operating software; router, switch, hub and server operating software; software for energy management; software for the administration of power grid data communication networks; network management and security software, namely, software for traffic prioritization, security, intrusion prevention, virtual private networks, firewalls, and identity and access control in the field of energy management	January 25, 2010
CISCO GRID IOS	77/919,862	(Int'l Class: 9) Computer operating software; router, switch, hub and server operating software; software for energy management; software for the administration of power grid data communication networks; network management and security software, namely, software for traffic prioritization, security, intrusion prevention, virtual private networks, firewalls, and identity and access control in the field of energy management	January 25, 2010

5. There is no issue as to priority. Opposer commenced use of the IOS Marks prior to the filing date of the Application, and Opposer's registrations were filed and matured to registration prior to the filing date of the Application. Furthermore, all four of Opposer's pending IOS and IOS-based applications were filed prior to the filing date of the Application or are entitled to priority over the Application. IOS and WiOS are visually and

aurally similar. In view of the similarities of the respective marks and the related nature of the goods of the respective parties, it is alleged that Applicant's alleged WiOS mark so resembles Opposer's IOS marks as to be likely to cause confusion or mistake or to deceive, thereby causing loss, damage, and injury to Opposer and the purchasing public, and to dilute the distinctive quality of Opposer's famous IOS Marks, thereby causing loss, damage, and injury to Opposer and the purchasing public.

6. Opposer is in the business of designing, manufacturing, marketing, selling, and providing a range of goods and services throughout the United States and worldwide, including computer hardware and software for managing computer networks and for interconnecting, managing, securing and operating local and wide area networks and telephony systems and related services, including in connection with computer operating systems. Since at least as early as July 8, 1993, Opposer or its predecessors in interest have marketed and sold router, switch, hub and server operating software in connection with the IOS Marks. Pursuant to Opposer's pending IOS and IOS-based applications, Opposer has rights in IOS expressly for "computer software for networking," which is related to wireless broadband services.

7. The aforementioned nationwide trademark and service mark use of IOS and other IOS-based marks by Opposer has been valid and continuous since the date of first use of each and has not been abandoned. As a consequence of Opposer's extensive marketing, promotion, advertising, and sales activity, Opposer's IOS Marks have come to be identified as designators of Opposer's goods and services, and as a result, have become valuable assets of Opposer, and principal symbols of its goodwill, and famous. In view of the similarity of the respective marks and the related nature of the goods and services of the respective parties, it is alleged that Applicant's alleged WiOS mark so resembles Opposer's IOS Marks previously used in the United States, and not abandoned, as to be likely to cause confusion or mistake or to deceive, thereby causing loss, damage, and injury to Opposer and the purchasing public, and to dilute the distinctive quality of Opposer's famous IOS marks, thereby causing loss, damage, and injury to Opposer and the purchasing public.

WHEREFORE, Opposer prays that this Notice of Opposition be sustained and that the Application be rejected.

Please charge the requisite \$300.00 filing fee for this Notice of Opposition and any additional fees to our Deposit Account No. 50-0261.

Respectfully submitted,
FENWICK & WEST LLP

Date: September 4, 2012

/sabel/
Sally M. Abel, Esq.
Attorney for Opposer
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
650-988-8500

CERTIFICATE OF SERVICE

The undersigned declares that:

I, Deborah A. Shaw, am employed in the County of Santa Clara, State of California. I am over the age of 18 and not a party to this action. My business address is: Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, CA 94041.

On September 4, 2012, I caused to be served the attached:

NOTICE OF OPPOSITION

on the parties in the subject action by placing a true copy thereof as indicated below, address:

Spot On Networks, LLC
55 Church Street
New Haven, CT 06510

- (XX) **BY U.S. MAIL:** I am familiar with our business practices for collecting and processing of mail for the United States Postal Service. Mail placed by me within the office for collection for the United States Postal Service would normally be deposited with the United States Postal Services that day in the ordinary course of business. The envelope(s) bearing the address(es) above was sealed and placed for collection and mailing on the date below following our ordinary business practices.
- () **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand on the office(s) of the addressee(s).
- () **BY FEDERAL EXPRESS:** I caused such envelope(s) to be delivered to Federal Express for overnight courier service to the office(s) of the addressee(s).
- () **BY FACSIMILE:** I caused a copy of such document(s) to be sent via facsimile transmission to the office(s) of the party(s) stated above and was transmitted without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 4, 2012

/Deborah A. Shaw/
Deborah A. Shaw